

## SENATE BILL NO. 128

INTRODUCED BY B. CROMLEY

BY REQUEST OF THE SUPREME COURT

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE PAYMENT OF TRANSCRIPT FEES IN CERTAIN CIVIL CASES; AMENDING SECTIONS 3-5-604, 3-5-901, AND 41-5-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 3-5-604, MCA, is amended to read:

**"3-5-604. Court reporters -- transcript of proceedings -- costs.** (1) Each court reporter shall furnish, upon request, with all reasonable diligence, to a party or a party's attorney in a case in which the court reporter has attended the trial or hearing a transcript from stenographic notes of the testimony and proceedings of the trial or hearing or a part of a trial or hearing upon payment by the person requiring the transcript of \$2 a page for the original transcript, 50 cents a page for the first copy, and 25 cents a page for each additional copy.

(2) If the court reporter is not entitled to retain transcription fees under 3-5-601, the transcription fees required by subsection (1) must be paid to the clerk of district court who shall forward the amount to the department of revenue for deposit in the state general fund.

(3) (a) If the judge requires a transcript in a criminal case, the reporter shall furnish it. The transcription fee must be paid by the state as provided in 3-5-901.

(b) If the county attorney or the attorney general requires a transcript in a criminal case, the reporter shall furnish the transcript and only the reporter's actual cost of preparation ~~may~~ must be paid by the county or the office of the attorney general.

(4) If the judge requires a copy in a civil case to assist in rendering a decision, the reporter shall furnish the copy without charge. In civil cases, including those cases held pursuant to Title 41, chapter 3, part 4 or 6, Title 41, chapter 5, and Title 53, chapter 21, part 1, all transcripts required by the county attorney or the attorney general must be furnished, and only the reporter's actual costs of preparation ~~may~~ must be paid by the county or the office of the attorney general.

(5) If it appears to the judge that a defendant in a criminal case or a parent or guardian in a proceeding

brought pursuant to Title 41, chapter 3, part 4 or 6, is unable to pay for a transcript, it must be furnished to the party and paid for by the state as provided in 3-5-901."

**Section 2.** Section 3-5-901, MCA, is amended to read:

**"3-5-901. State assumption of district court expenses.** (1) There is a state-funded district court program. Under this program, the state shall fund all district court costs, except as provided in subsection (4). These costs include but are not limited to:

(a) salaries and benefits for:

(i) district court judges;

(ii) law clerks;

(iii) court reporters, as provided in 3-5-601;

(iv) juvenile probation officers, youth division offices staff, and assessment officers of the youth court;

and

(v) other employees of the district court;

(b) in criminal cases, fees for transcripts of proceedings, as provided in 3-5-604, expenses for indigent defense that are paid under contract or at an hourly rate, and expenses for psychiatric examinations;

(c) the district court expenses in all postconviction proceedings held pursuant to Title 46, chapter 21, and in all habeas corpus proceedings held pursuant to Title 46, chapter 22, and appeals from those proceedings;

(d) the following expenses incurred by the state in federal habeas corpus cases that challenge the validity of a conviction or of a sentence:

(i) transcript fees as provided in 3-5-604;

(ii) witness fees; and

(iii) expenses for psychiatric examinations;

(e) the following expenses incurred by the state in a proceeding held pursuant to Title 41, chapter 3, part 4 or 6, that seeks temporary investigative authority of a youth, temporary legal custody of a youth, or termination of the parent-child legal relationship and permanent custody:

(i) transcript fees as provided in 3-5-604;

(ii) witness fees;

(iii) expenses for medical and psychological evaluation of a youth or the youth's parent, guardian, or other person having physical or legal custody of the youth except for expenses for services that a person is

- 1 eligible to receive under a public program that provides medical or psychological evaluation;
- 2 (iv) expenses associated with appointment of a guardian ad litem or child advocate for the youth; and
- 3 (v) expenses associated with court-ordered alternative dispute resolution;
- 4 (f) in involuntary commitment cases pursuant to 53-21-121, reasonable compensation for services and
- 5 related expenses for counsel appointed by the court;
- 6 (g) costs of the court-sanctioned educational program concerning the effects of dissolution of marriage
- 7 on children, as required in 40-4-226, and expenses of education when ordered for the investigation and
- 8 preparation of a report concerning parenting arrangements, as provided in 40-4-215(2)(a);
- 9 (h) all district court expenses associated with civil jury trials if similar expenses were paid out of the
- 10 district court fund or the county general fund in any previous year;
- 11 (i) all other costs associated with the operation and maintenance of the district court, including contract
- 12 costs for court reporters who are independent contractors, but excluding the cost of providing district court office,
- 13 courtroom, and other space as provided in 3-1-125; and
- 14 (j) costs of the youth court and youth court division operations pursuant to 41-5-111 and subsection
- 15 (1)(a) of this section, except for those costs paid by other entities identified in Title 41, chapter 5, and the costs
- 16 of providing youth court office, courtroom, and other space as provided in 3-1-125.
- 17 (2) In addition to the costs assumed under the state-funded district court program, as provided in
- 18 subsection (1), the state shall fund and directly pay the expenses of the appellate defender program. These
- 19 costs must be allocated to and paid by the appellate defender program.
- 20 (3) In addition to the costs assumed under the state-funded district court program, as provided in
- 21 subsection (1), the state shall reimburse counties, within 30 days of receipt of a claim, for the following:
- 22 (a) in district court criminal cases:
- 23 (i) expenses for indigent defense that are not paid under subsection (1)(b);
- 24 (ii) juror fees and necessary expenses; and
- 25 (iii) witness fees and necessary expenses as provided in 46-15-116;
- 26 (b) in proceedings under subsection (1)(e):
- 27 (i) expenses for appointed counsel for the youth; and
- 28 (ii) expenses for appointed counsel for the parent, guardian, or other person having physical or legal
- 29 custody of the youth; and
- 30 (c) costs of juror and witness fees and witness expenses before a grand jury.

(4) For the purposes of subsection (1), district court costs do not include:

(a) one-half of the salaries of county attorneys;

(b) salaries of deputy county attorneys;

(c) salaries of employees and expenses of the offices of county attorneys;

(d) costs for clerks of district court and employees and expenses of the offices of the clerks of district court;

(e) costs of providing and maintaining district court office space; or

(f) charges incurred against a county by virtue of any provision of Title 7 or 46."

**Section 3.** Section 41-5-111, MCA, is amended to read:

**"41-5-111. Court costs and expenses.** The following expenses must be a charge upon the funds of the court or other appropriate agency when applicable, upon their certification by the court:

(1) reasonable compensation for services and related expenses for counsel appointed by the court for a party;

(2) the expenses of service of summons, notices, subpoenas, traveling expenses of witnesses, and other like expenses incurred in any proceeding under the Montana Youth Court Act as provided for by law;

(3) reasonable compensation of a guardian ad litem appointed by the court; and

(4) cost of transcripts as provided in 3-5-604 and printing briefs on appeal."

NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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